

III. REMARKS

Claims 1-40 are pending in this application. By this amendment, claims 1, 11, 15, 17, 18, 28, 32, 34-36 and 38-40 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1, 5, 7, 10-11, 14-15, 17-18, 22, 24, 27-28, 31-32, 34-35, 36-37, 39 and 40 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Tonouchi (U.S. Patent Pub. No. 2002/0004833), hereafter "Tonouchi." Claims 2-3, 6, 19-20 and 23 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Tonouchi in view of Webb *et al.* (U.S. Patent Pub. No. 2002/0083342), hereafter "Webb." Claims 4, 12-13, 16, 21, 29-30, 33 and 36 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Tonouchi in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter "Bondarenko." Claims 8-9 and 25-26 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Tonouchi in view of Slotznick (U.S. Patent No. 6,011,537), hereafter "Slotznick."

A. REJECTION OF CLAIMS 1, 5, 7, 10-11, 14-15, 17-18, 22, 24, 27-28, 31-32, 34-35, 36-37, 39 AND 40 UNDER 35 U.S.C. §102(e)

With regard to the 35 U.S.C. §102(e) rejection over Tonouchi, Applicants assert that the cited reference does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 18, and 35, Applicants submit that Tonouchi fails to teach determining, upon receipt of the request, whether the access level for said scarce resource is

currently at a desired maximum. Instead, the passage of Tonouchi cited by the Office teaches that "The contract server...investigates the number of reservations in the time period on which the user performs the reservation request, and confirms whether or not it exceeds the acceptable number of reservations." Page 7, par. [0136]. To this extent, the time period for which the contract server of Tonouchi confirms whether the number of reservations exceeds the acceptable number of reservations is a future time period of a reservation request, and not the current point in time. Furthermore, the investigation of Tonouchi is performed in response to a reservation request for future service and not upon receipt of a request for immediate access. Nowhere does Tonouchi teach that its contract server determines, upon receipt of a request for immediate access, whether the access level for the resource is currently at a desired maximum. In contrast, the claimed invention includes "...determining, upon receipt of the request, whether the access level for said scarce resource is currently at a desired maximum." Claim 1. As such, the determining of the claimed invention does not merely confirm whether the number of reservations in a future time period exceeds the acceptable number of reservations as does the contract server of Tonouchi, but instead determines whether the access level for a scarce resource is currently at a desired maximum. Furthermore, rather than being in response to a reservation request for future service as in Tonouchi, the determining of the claimed invention occurs upon receipt of a request for immediate access. Thus, the determining of the claimed invention is not taught by the contract server of Tonouchi. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claims 1, 18, and 35, Applicants submit that Tonouchi fails to teach responsive to determining that said access level is currently at a desired

maximum, automatically allocating to an access slot, which specifies a time period during which the scarce resource may be accessed, said requester. Instead, the reservation of Tonouchi is a time period that is requested by the user. Page 7, pars. [0134]-[0135]. Tonouchi does not teach its reservation is automatically allocated in response to a determination that an access level is currently at a desired maximum. In contrast, the claimed invention includes "...responsive to determining that said access level is currently at a desired maximum, automatically allocating to an access slot, which specifies a time period during which the scarce resource may be accessed, said requester." Claim 1. As such, unlike in Tonouchi in which a user reserves the time period, in the claimed invention the requester is automatically allocated to an access slot in response to a determination that the access level is currently at a desired maximum. Thus, the access slot of the claimed invention is not taught by the reservation of Tonouchi. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to independent claims 36 and 39 and dependent claims 11, 15, 17, 28, 32 and 34, Applicants respectfully submit that Tonouchi fails to teach or suggest responsive to determining that said access level is currently at a desired maximum, determining whether said scarce resource is able to accommodate immediate access by said late requester. Tonouchi has no provision for accommodating immediate access by a user has missed or gone beyond a time period, but instead, the user in Tonouchi follows the same procedure for reserving a future time period in all cases. See Office Action, page 3, in which pars. [0136]-[0138] cited with respect to both of claims 1 and 11. However, in the claimed invention, upon receipt of a normal request, the claimed invention, "...responsive to determining that said access level is at a desired maximum, automatically allocat[es] to an access slot, which specifies a time period during which

the scarce resource may be accessed, said requester.” Claim 1. As such, the requestor of a regular request of the claimed invention is not granted immediate access if the access level is at a desired maximum, but instead is automatically allocated to an access slot. In contrast, if the request of the claimed invention is a late request from a user that has missed or gone beyond a time period, it is determined “...responsive to determining that said access level is currently at a desired maximum, ...whether the scarce resource can accommodate immediate access by the user to the scarce resource.” Claim 36. Thus, the late requestor of the claimed invention may be granted immediate access even when the access level of the scarce resource is at the desired maximum. Thus, in contrast to Tonouchi in which all scenarios use the same process, the claimed invention uses a different determination for late requests and/or users that have gone beyond their time period than the determination that it uses for regular requests. Thus, the determining step for a late request as included in the claimed invention is not taught by the reservation of a time period in Tonouchi. Accordingly, Applicants request withdrawal of this rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

B. REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

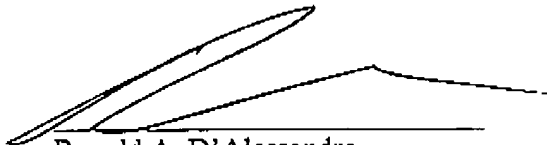
With regard to the 35 U.S.C. §103(a) rejections, Applicants submit that each claim in the rejections includes at least one of the features of the above claims and/or depends from one of the above claims. As such, Applicants herein incorporates the arguments presented above. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

IV. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



Ronald A. D'Alessandro
Reg. No.: 42,456

Date: December 8, 2005

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

RAD/hew